



Cabin bag: a new regulatory and legal battle in Europe

In October 2023, PionAirLaw firmly defended the legality of airlines' policies to charge for cabin baggage and their alignment with the European legal framework and the case law of the Court of Justice of the European Union (CJEU), which establish that airlines may charge a fee for carry-on baggage exceeding the dimensions permitted for underseat bags, provided this policy is clearly and transparently disclosed at the time of booking, in accordance with applicable EU law.

Since then, this issue has sparked intense regulatory, judicial, and media activity, marked by major controversies, contentious decisions, and unprecedented sanctions. As a result, we revisit the topic in this newsletter to provide an updated and comprehensive analysis.

SANCTIONS IMPOSED BY THE SPANISH CONSUMER RIGHTS MINISTRY

As outlined in our previous publication, the CJEU's judgment in the Vueling case (C-487/12)¹ provides an interpretation that supports the legality of commercial practices whereby airlines charge an extra fee for cabin baggage, in accordance with Article 97 of the Spanish Air Navigation Act² and Regulation (EC) No 1008/2008³.

Despite this, in November 2024, the Spanish Consumer Rights Ministry imposed unprecedented fines totalling approximately €179 million (Ryanair €107 million, Vueling €39 million, EasyJet €29 million, Norwegian €16 million, and Volotea €12 million), labelling these practices as abusive⁴.

These historic sanctions have been challenged by the affected airlines before the competent Spanish courts. In the meantime, the airlines continue to apply their cabin baggage policies, defending their legality in line with long-standing legal interpretations.

In parallel, in May 2025, consumer associations from twelve European countries filed coordinated complaints against seven airlines (the five sanctioned by the Spanish government, plus

Transavia and Wizzair) alleging that cabin baggage fees are abusive. This initiative, led by the European Consumer Organisation (BEUC), cited the controversial Spanish sanctions and urged the European Commission and the Consumer Protection Cooperation Network to act accordingly⁵.

On the same day, the Spanish Consumer Rights Minister announced the initiation of disciplinary proceedings against Transavia and Wizzair –the only two airlines from the BEUC list not yet targeted by the Spanish government–. With that attitude, rather than exercising restraint pending clearer European regulation or a court ruling on the sanctions imposed, the Ministry opted to escalate its enforcement campaign, raising concerns over both its legal basis and timing.

PROPOSAL TO AMEND REGULATION (EC) NO 2027/1997

In this context of so much activity and controversy, on 5 June 2025, the European Transport Council approved a crucial agreement to amend Regulation (EC) No 2027/1997⁶, explicitly endorsing the practice of charging a fee for hand luggage when it exceeds the dimensions that allow it to be placed under the seat in front of the passenger, thus supporting the commercial policy of low-cost airlines.

Strategically and rightly so incorporated into Regulation (EC) No 2027/1997 –rather than the already saturated Regulation (EC) No 261/2004⁷– the amendment enables more precise and technical clarification regarding baggage transport conditions.

The proposal introduces a new Article 6d, which mandates the provision of detailed information on baggage limits, restrictions, conditions, and applicable fees. It also formally defines a "personal item" as "a piece of unchecked baggage, constituting a necessary aspect of the carriage of passengers, which complies with security and safety requirements, with maximum dimensions of 40x30x15cm or on condition that it fits under the front seat." This definition underpins the legitimacy of fees when these dimensions are exceeded.

¹ Judgment of the Court of Justice of the European Union (Second Chamber) of 18 September 2014, Vueling Airlines SA v Instituto Galego de Consumo de la Xunta de Galicia, Case C-487/12.

² Act 48/1960, dated 22nd July on Air Navigation.

³ Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community.

⁴ For further information, please refer to the [press release](#) issued by the Ministry.

⁵ For further information, please refer to the [press release](#) issued by the Ministry.

⁶ Council Regulation (EC) No 2027/97 of 9 October 1997 on air carrier liability in the event of accidents, as amended by Regulation (EC) No 889/2002.

⁷ Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights.

The hotly debated proposal was adopted by a narrow margin, with Spain, Germany, Portugal and Slovenia voting against, and crucial abstentions from Estonia and Austria. Its future in the European Parliament is uncertain, given the current delicate political balance and the reservations already expressed by some influential parliamentary groups, anticipating a complex and unpredictable legislative discussion.

ASSESSMENT OF THE LEGISLATIVE PROPOSAL

Despite its political fragility, this proposal represents a necessary solution to provide regulatory clarity and adequately reflect the operational reality of airlines. The European lawmakers should favour regulations that follow the natural evolution of the market, generating more choice and tangible benefits for passengers.

In addition to baggage, the fare freedom provided for in Regulation (EC) No 1008/2008 has made it possible to develop new and diverse commercial options for passengers, such as differentiated fares, the possibility of choosing seats or the new, more affordable intermediate premium categories on long-haul flights, all of which are aimed at responding to user preferences and benefiting a greater number of travellers.

As far as cabin baggage is concerned, airlines insist that the legality of charging for additional baggage is supported by sound operational arguments, including the optimisation of cabin space and a significant reduction of delays. This is evidenced, inter alia, by the objective physical limitation of some aircraft models such as, the Airbus A320, which can only accommodate 90 luggage trolleys in its overhead bins while it can carry more than 180 passengers.

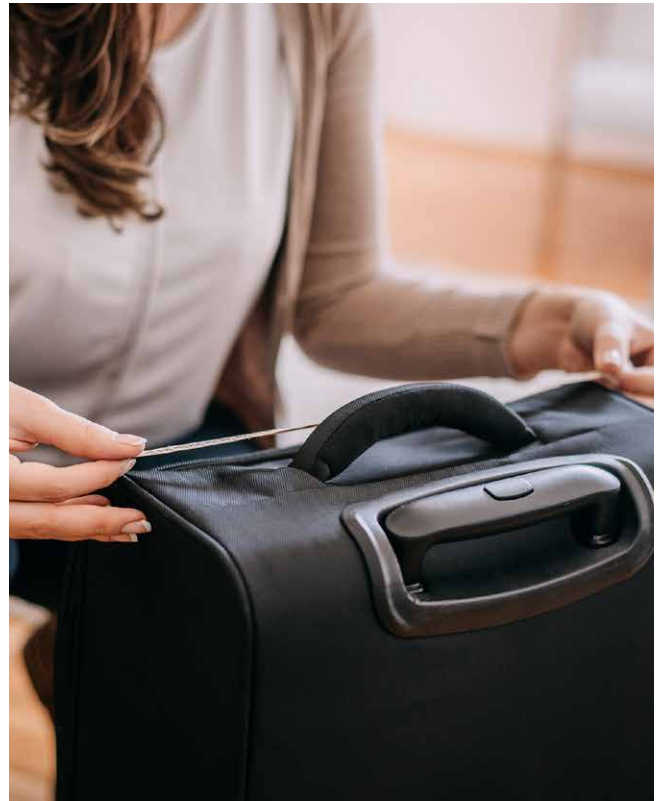
In addition, according to data provided by several airlines, this practice has contributed to a reduction in operational delays of up to 90% by speeding up boarding times and gate closures, which, in turn, results in more efficient handling and improved punctuality for the benefit of passengers, in general.

This is reflected in the fact that, in 2024, more than 50 million passengers in Spain chose not to carry additional baggage, voluntarily adjusting to the most economical conditions. For these travellers, forcing the inclusion of a service they do not use –such as a baggage allowance– would be both unfair and inefficient. This fare structure thus reflects both a legitimate commercial logic and a demand based on the actual consumer preference.

On the other hand, it is of particular concern that hand luggage is only the first target in a potential chain of challenges to perfectly valid commercial policies within the European fare model.

If this interventionist approach is consolidated, other legitimate business practices may also come under scrutiny. These could include limiting food offerings based on flight duration or fare type, restrictions on pet transport for operational or safety reasons, fees for premium services like priority boarding or VIP lounge access, choosing your seat in differentiated cabins and even non-refundable fare options.

We should bear in mind that airlines, as private enterprises, are entitled to define their business models and structure their commercial offering in accordance with efficiency, demand segmentation, and financial sustainability. As a matter of fact, these commercial decisions are part of a broader service tailoring strategy that has allowed millions of passengers to access more affordable flights adapted to their needs and, therefore, challenging this commercial flexibility because of ideological or interventionist agendas risks opening the door to a more rigid less competitive model, far from the reality of modern air transport.



CONCLUSIONS

While the Spanish Consumer Rights Minister misinterprets the recent European legislative initiative as an implicit admission of previous illegality, the reality is quite different: the policies were already legal under the current regulatory framework, and the EU proposal seeks precisely to avoid arbitrary interpretations such as those made by his Ministry, providing a clearer and more consistent legal basis.

Unfortunately, the position of the Consumer Rights Ministry reveals not only a weak legal basis, but also an ideological bias that harms millions of passengers and a strategic industry for the Spanish and European economies. Therefore, even in the hypothetical case that this reform ultimately fails –a possibility that is not at all remote, given the current political balance– it is important to remember that the legislative process itself already offers a robust interpretative framework for questioning the lawfulness of such sanctions and limiting any attempt to extend them to other airlines.

Now more than ever, the aviation sector requires a clear, consistent, and fair regulatory framework –one that reflects the commercial realities of the industry and respects business autonomy. National authorities must respect the principles of the common framework and abandon punitive and politically motivated approaches that undermine legal certainty and distort economic activity. Targeting lawful practices under shifting pretexts hinders airlines' competitiveness and worsens passengers' experience, by limiting their ability to choose.

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